IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 15748 of 2005

Between:

Kancham Ramesh, S/o.Raja Veeraiah,
Parkal Town , Warangal District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Karimanagar Region, Karimnagar

Town & District.
2 The Depot Manager, Metpally Depot, APSRTC., Metpally Town,

Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more in the nature of Writ of Mandamus, declaring the action of the Respondent No.1 herein in passing order in A.P.S.R.T.C No.P2/785 (108)/2003-RM: KR, dt.17-01-2004, deducting / withholding an amount of Rs.1,55,096-50 P from the hire charges payable to me, on the ground that an equivalent amount was paid to the Claimants in Eduru Muthamma & others, In O.P.No.612 of 2002, on the file of the I Addl. District Judge, Warangal, as illegal, arbitrary, unconstitutional, and Violative of Article 14 and 16 of the constitution of India.

Counsel for the Petitioner: MR.M.MADHAVA REDDY

Counsel for the Respondents: SMT.P.RAJANI REDDY

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in withholding an amount of Rs.1,55,096-50 ps. from out of the hire charges on the ground that to that extent an award was passed in O.P.No.612 of 2002 dated 07-03-2003 in favour of the claimant in respect of the petitioner's vehicle which met with an accident. According to the Corporation, the owner of the vehicle is liable to pay the said amount and not by the Corporation.

2. The grievance of the petitioner is that though he was the owner of the vehicle, it was hired in favour of the respondent-Corporation and the respondent-Corporation is liable for any of the incident and accident while the vehicle is under the custody of the respondent-Corporation. Therefore, though the petitioner is the owner of the vehicle, he is not liable to pay to the claimants as per the award passed by the Motor Vehicle Accidents Claims Tribunal.

3. At the time of hearing, it is represented by the learned counsel for the petitioner that this issue is covered by a judgment of this Court in **K.Matura Bai and others v. A.Shiva Nageswar Rao and others,** where it was held that in spite of specific clause contained in the agreement of lease, as per which the owner of the vehicle is liable for the claims out of the accidents, the said clause is illegal and invalid, and it is only the Corporation, which is liable to make good to the claimants as a result of an accident. Therefore, sought for release of the

withheld rental amounts, which are due to the petitioner.

4. The learned counsel for the respondents, however, sought to contend that as there is an award against the petitioner, the petitioner is liable to pay the said amount and the Corporation is not liable.

5. Heard both sides and considered the material on record.

6 . As the issue in question is covered by the judgment of this Court in **K.Matura Bai's case** (1 supra), the respondent-Corporation is not entitled to withhold the lease rentals or hire charges payable to the petitioner.

7. Therefore, the impugned order is accordingly set aside and the respondent-Corporation is directed to release the amounts due to the petitioner towards the hire charge which are withheld under the impugned order dated 17-01-2004.

8. This writ petition is accordingly allowed. No order as to costs.

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S.ANANDA REDDY, J

20th July, 2005

SKM

Copy to:

1 The Regional Manager, APSRTC, Karimnagar Region, Karimnagar Town & District.

2 The Depot Manager, Metpally Depot, APSRTC., Metpally Town, Karimnagar District.

3 1 CC to MR.MADHAVA REDDY

4 Two C.D. Copies.